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Hello,
as a longtime IT professional, I had many opportunities to witness
and/or be affected by Microsoft peculiar business practices.
It seems of the utmost importance to many players in the IT industry,
as well as for the public interest, that whatever settlement is
offered to Microsoft by the DoJ and the government strongly
emphasizes on remedies to what is the worst effect of Microsoft
strongarm methods, based on its monopoly, namely: preventing
competition and creativity.

Be Inc. is one of the better examples of how companies that offer any
innovative products on markets under Microsoft influence are both
vulnerable and actively endangered and often put out of business.

BeOS is a good example of the danger Microsoft presents for
competition and innovation, for it was one of the few commercial
attempts on the ground of Microsoft flagship product, and was led as
well as could be.

Microsoft monopoly is not a question anymore, since the DoJ
established it, and it would be cause for no alarm if Microsoft owed
said monopoly to its hability to offer better, cheaper products to
the market.

But the fact is, it isn't the case, MS products are of lesser value
than many competing products, and the company also leverages its
dominant position to overprice its products.

Furthermore, MS practices tend to harm innovation and competition by
spending more time and money at hampering competitors than actually
develop new/better products and technologies.

Every new technology from other companies that blips on MS radar is
either outright bought (often with the sole intent of preventing its
success, and no plans to ever bring it to the market) or actively
discouraged to exist out of MS influence.

So what is needed now, is to aknowledge the fact that while one of
free market's bigger strength is to foster progress and innovation
through competition, Microsoft has become so powerful that it now
has the weight to negate this strenght, and can stop free market top
play its role in the consumer electronics industry.

Since Microsoft has the power to force its rules to apply to the
industry as a whole, there is little choice but acknowledge it and
turn a de-facto standard into a standard : make Microsoft products
public !

- Microsoft can retain the property of the Windows code and
technology, but it should be made so that third-party companies can
create products Microsoft compatible with or without Microsoft
approval.

- License agreements between Microsoft and users, Microsoft and
resellers or manufacturers should be revised and controlled in the
perspective of fairness.

- Public standards and generally non Microsoft-owned standards
Microsoft claims to be compliant with should be enforced.

- De-facto standards, like Microsoft Office file formats should be
documented and published.

- In the same fashion, source code for dominant technologies from
Microsoft should be published and documented (it doesn't prevent
Microsoft from retaining property of said source code), so to ensure
third party manufacturers and developers can design compatible

products without depending on Microsoft "goodwill". This would also help smaller company to gain rights on "borrowed" software...

- All Windows APIs and low-level subsystems should be documented as well as technologies such as DirectX. The best way to ensure such documentation is kept full and up to date would be to separate some software divisions of Microsoft from the core company, as spinoffs, and have them gain knowledge of the documentation via a third party organization (funded by Microsoft on a congress-sized allocation ?), comprizing industry actors as well as government experts.

- Give the highest attention to Microsoft business practices in the future and realistically adapt fines and financial penalties to the profits of Microsoft (at some point in the Netscape case, penalties applied to Microsoft where of one million dollars when profits *for* the same period wre of eleven million, which led one Microsoft executive to state Microsoft can afford it.)

Below is an example relation of how the OEM license and other common business practices of Microsoft can in fact hamper innovation and competition.

Be Inc is the maker of BeOS, a desktop operating system that runs on the same personal computers that Windows does.

Be Inc. is going out of business just now, because of Microsoft "innovation-fostering" business practices.

There is an initiative led by BeOS users to bring back the BeOS to the market, as a non-profit software, which tells enough about the quality of the product.
Yet, this initiative has no hope of success if Microsoft is left free to conduce anti-competitive business practices as it did up to this point.

Let me summarize how Microsoft did prevent BeOS from gaining foot on the market and eventually drove out of business a company whose products were of undisputed great value.

BeOS, like BSD or Linux can be installed on a given computer alongside with others operating systems, giving the user the ability to decide what system to run at the time it starts his/her machine.

Since Microsoft doesn't built said computers, one would assume that it's out of MS hands to prevent any reseller or OEM to sell computers ready to run with more than one system installed.

The fact is, Microsoft can do just that, and took the necessary steps to make sure nothing like BeOS can actually reach the mainstream user.

Microsoft licensing model for its software prevents computers manufacturers and resellers from installing a non Microsoft boot manager on computers shipping with an OEM licensed copy of Windows. The boot manager is the piece of software that allows the user to select his/her operating system of choice among those installed on the computer at startup type.
MS boot manager is obviously not designed to accommodate non-MS operating systems...

With margins on personal computers averaging in the 6-12 % range, a difference of a couple hundred dollars on pricing can be the difference between selling for a profit and selling at loss, which makes the OEM license mandatory if one wants to sell computers including Windows.

The OEM license allows manufacturers to get any version of Windows

for next-to-nothing compared to the cost of a stand alone copy of the
same software (even at bulk rates).

By virtues of a market dominance reaching to monopoly, not inclunding
Microsoft Windows in your computers is not an option for most
manufacturers.

Furthermore, while the OEM licenses are supposed to be granted on a
per-product basis, it is an established fact that Microsoft
threatened some manufacturers to
refuse this license unless they do ship Windows on every of their machines.

That leaves the manufacturer/reseller with little options.

Either go the Windows-only way, or sell at loss or non-competitive prices.

Simple as that.

Since BeOS, contrary to Linux or BSD is the product of a private
company, it depends on the company revenues to exist. Those revenues,
in turn, are based on sales of the operating system and deals with
hardware manufacturers.

For an operating system to gain momentum, it has to be able to
accommodate hardware and applications.
Here again, Microsoft proved able to discourage some software and
hardware manufacturers to support BeOS, less they lose the "goodwill"
of Microsoft.

In the end, there is no point in developing software or hardware for
an operating system only a few use, unless this platform can gain
momentum and you grow with it, in the hope of becoming a big player.

And only a few, those who were willing and able to install another
system on their computers by themselves, in a market where every
element of the food chain is led to believe and forced to act as if
nothing could exist unless endorsed by Microsoft, did actually
experience how a better, cheaper product may look and feel like.

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          Best viewed with your glasses :-)

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